

REMARKS

Claims 1-21 are pending and are the subject of the present office action.

Claim 1 has been amended, and claim 2 has been canceled without prejudice. Claim 17 has also been canceled without prejudice, and claim 18 amended.

The amendment is illustrated on the attached page entitled "Marked Up Version to Show Changes Made". For the Examiner's convenience, a clean copy of the now pending claims 1, 3-16, and 18-21 is provided above.

Objections to Claims

*overcome
b7
amend* Claim 2 was objected to as being of improper dependent form. To expedite prosecution, and without prejudice or acquiescence to the merits of the objection, claim 1 was amended and claim 2 canceled. Withdrawal of the objection is respectfully requested.

Claims 1-21 were objected to under Section 112, sixth paragraph. Applicants respectfully disagree that the claims presented are means-type claims. The claims are DNA composition of matter claims which recite DNA encoding antibodies having the properties clearly identified in the claims. As such, it is believed the claim format utilized is appropriate and withdrawal of the rejection is hereby requested.

Section 101 Rejection

*overcome
by amendment* Claim 17 was rejected under Section 101 as not being supported by a specific and substantial or well established utility. Claim 17 has been canceled without prejudice, and claim 18 has been amended. Withdrawal of the rejection is respectfully requested.

Section 112 Rejections

*overcome
b7
amend* Claim 17 was rejected under Section 112, first paragraph, as not being enabled. In view of the cancellation of claim 17 and amendment to claim 18, it is believed this rejection has been overcome.

Claims 1-21 were also rejected under Section 112, first paragraph, as being non-enabled. As discussed above, it is believed

that the claims do not represent single means claims, and withdrawal of the rejection is requested.

Withdrawal of the rejection of claims 1-21 under Section 112, first paragraph, on grounds of lack of possession, is also requested. The specification as filed clearly demonstrated a reduction to practice of the recited antibodies and DNA encoding such antibodies.

Section 102 Rejections

Claims 1-12 and 15-21 were rejected under Section 102(e) or (g) as being anticipated by US Patent 6,342,369 ("the '369 patent"). Claims 1-12 and 15-21 were also rejected under Section 102(f) on grounds that the applicant did not invent the claimed subject matter. Applicants respectfully traverse the rejections.

The claims presented in the instant application are directed to DNA (as well as vectors, host cells, etc.) encoding antibodies which specifically cross-react with two or more different Apo-2L receptors. The application at page 21, lines 26-32 - page 22, lines 1-8, provides an express definition of what Applicants mean by the term "specifically cross-reacts." Accordingly, the scope of the antibodies contemplated by the present application is clearly distinguished over any mention in the '369 patent relating to the 3F11.39.7 antibody. The '369 patent does not characterize any particular aspects of the binding of the 3F11.39.7 antibody to DR4 other than to state the antibody showed some cross-reactivity (e.g., '369 patent at column 48, lines 59-60). The definition provided in the instant application clearly provides the threshold characteristics of an antibody which specifically cross-reacts with two or more different Apo-2L receptors. For at least these reasons, the '369 patent does not teach or enable the claims presented in the instant application.

new to
check
if it
travels
the
DNA

Respectfully submitted,

Date: April 10, 2003

By: Diane L. Marschang
Diane L. Marschang
Reg. No. 35,600

1 DNA Way
So. San Francisco, CA 94080-4990
Phone: (650) 225-5416



MARKED UP VERSION TO SHOW CHANGES MADE

In the claims:

1. (Amended) An isolated nucleic acid comprising DNA encoding a[n] monoclonal antibody which specifically cross-reacts with two or more different Apo-2L receptors.

Please cancel claim 2 without prejudice.

Please cancel claim 17 without prejudice.

18. (Amended) A method of producing an antibody comprising culturing the host cell of claim 16 under conditions wherein the DNA is expressed and [The method of claim 17 further comprising recovering] the antibody is recovered from the host cell culture.

RECEIVED
APR 15 2003
TECH CENTER 1600/2900